

AMENDED IN ASSEMBLY JUNE 5, 2008

AMENDED IN SENATE APRIL 9, 2008

**SENATE BILL**

**No. 1726**

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**Introduced by Senator Scott**

February 22, 2008

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An act to amend Sections ~~7660.5, 7662, 7612, 7613, 7630, 7660.5, 7662, 8700, 8714.5, 8802, and 8814.5~~ of the Family Code, *and to amend Section 1510 of the Probate Code, and to amend Section 361 of the Welfare and Institutions Code*, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1726, as amended, Scott. Adoption.

(1) Existing law governs *the presumptions that apply in a proceeding to determine parentage, including which presumption controls in a case in which 2 or more presumptions arise. Existing law also governs the determination of parentage when a wife undergoes artificial insemination.*

*This bill would revise those provisions to make them gender neutral, as specified.*

(2) *Existing law authorizes the joinder of prospective adoptive parents in a paternity action without the need for a separate motion.*

*This bill would provide that a joined party shall not be required to pay a fee in connection with this action.*

(3) *Existing law governs juvenile court proceedings and adoption and foster care proceedings. Among other things, these provisions provide for the confidentiality of juvenile court records, require that notice of hearings in dependency proceedings be given to specified persons, and govern the rights of parents in adoption proceedings. Existing law generally provides that if a presumed father waives the*

right to notice in writing before a notary public, no notice of, voluntary relinquishment for, or consent to adoption shall be required from him for the adoption to proceed.

This bill would revise the latter provision to provide that a presumed father may waive the right to notice of any adoption proceeding before or after the birth of the child and in front of ~~either~~ an authorized representative of the State Department of Social Services, an authorized representative of a public or private adoption agency, or a notary public.

~~(2)~~

(4) The Uniform Parentage Act governs the determination of parent and child relationships. Among other things, the act authorizes proceedings to terminate the parental rights of an alleged father when the child is the subject of an adoption proceeding and the alleged father has not, in writing, denied paternity or waived his right to notice of, voluntarily relinquished the child for, or consented to, the adoption.

This bill would revise and recast the provision relating to the termination of the rights of an alleged father of a child that is the subject of an adoption proceeding, as specified. The bill would provide, in addition, that a birth father may validly execute a waiver of notice or denial of paternity before or after the birth of the child, and once signed, no notice of, voluntary relinquishment for, or consent to the adoption of the child shall be required from the birth father for the adoption to proceed.

~~(3)~~

(5) Existing law provides that if a child is the subject of an adoption and a guardianship petition, the guardianship proceeding shall be consolidated with the adoption proceeding.

This bill would provide that both the guardianship case and the adoption case shall be heard and decided by the court in which the adoption is pending.

~~(4)~~

(6) Existing law provides that, after a consent to an adoption is signed by the birth parent or parents, the birth parent or parents signing the consent have 30 days to take one of specified actions, including signing a waiver of the right to revoke consent. Existing law requires a waiver to be signed in the presence of a representative of the department or the delegated county adoption agency. If those persons are not available within 10 days, the waiver may be signed in the presence of a judicial officer. Existing law also provides for the waiver to be signed in the presence of a judicial officer, as specified.

This bill would delete the provision authorizing the waiver to be signed in the presence of a judicial officer if neither a representative of the department or agency is available within an unspecified number of days, as specified. The bill would authorize a birth parent to sign the waiver in the presence of an adoption service provider *if the birth parent is represented by independent legal counsel and the provider takes specified other action, or in the presence of a judicial officer of a court of record* if the birth parent is represented by independent legal counsel. *The bill would require that a licensed adoption agency or an adoption service provider provide specified information to a birth parent regarding his or her request to withdraw a relinquishment or a waiver of consent to adoption, as applicable.* The bill would also ~~delete the role of the judicial officer in proceedings related to the signing of the waiver, as specified, and would instead~~ set forth the role of independent legal counsel, as specified. The bill would set forth a specified certificate for that counsel to use in those proceedings. The bill would make other, related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7612 of the Family Code is amended to  
2     read:  
3     7612. (a) Except as provided in Chapter 1 (commencing with  
4     Section 7540) and Chapter 3 (commencing with Section 7570) of  
5     Part 2 or in Section 20102, a presumption under Section 7611 is  
6     a rebuttable presumption affecting the burden of proof and may  
7     be rebutted in an appropriate action only by clear and convincing  
8     evidence.  
9     (b) If two or more presumptions arise under Section 7610 or  
10    7611 ~~which~~ that conflict with each other, *or if a presumption under*  
11    *Section 7611 conflicts with a claim pursuant to Section 7610*, the  
12    presumption which on the facts is founded on the weightier  
13    considerations of policy and logic controls.  
14    (c) The presumption under Section 7611 is rebutted by a  
15    judgment establishing paternity of the child by another man.  
16    SEC. 2. Section 7613 of the Family Code is amended to read:  
17    7613. (a) If, under the supervision of a licensed physician and  
18    surgeon and with the consent of her husband *or spouse*, a wife *or*

1 *spouse* is inseminated artificially with semen donated by a man  
2 not her husband, *or if a woman has an embryo implanted in her*  
3 *womb, created by using semen donated by a man who is not her*  
4 *husband*, the ~~husband~~ *spouse* is treated in law as if he *or she* were  
5 the natural father *or second parent* of a child thereby conceived.  
6 The husband's *or spouse's* consent must be in writing and signed  
7 by him *or her* and his *or her* wife *or spouse*. The physician and  
8 surgeon shall certify their signatures and the date of the  
9 insemination, and retain the husband's *or spouse's* consent as part  
10 of the medical record, where it shall be kept confidential and in a  
11 sealed file. However, the physician and surgeon's failure to do so  
12 does not affect the ~~father~~ *parent* and child relationship. All papers  
13 and records pertaining to the insemination, whether part of the  
14 permanent record of a court or of a file held by the supervising  
15 physician and surgeon or elsewhere, are subject to inspection only  
16 upon an order of the court for good cause shown.

17 (b) The donor of semen provided to a licensed physician and  
18 surgeon *or to a licensed sperm bank* for use in artificial  
19 insemination *or in vitro fertilization* of a woman other than the  
20 donor's wife is treated in law as if he were not the natural father  
21 of a child thereby conceived.

22 SEC. 3. *Section 7630 of the Family Code is amended to read:*

23 7630. (a) A child, the child's natural mother, a man presumed  
24 to be the child's father under subdivision (a), (b), or (c) of Section  
25 7611, an adoption agency to whom the child has been relinquished,  
26 or a prospective adoptive parent of the child may bring an action  
27 as follows:

28 (1) At any time for the purpose of declaring the existence of the  
29 father and child relationship presumed under subdivision (a), (b),  
30 or (c) of Section 7611.

31 (2) For the purpose of declaring the nonexistence of the father  
32 and child relationship presumed under subdivision (a), (b), or (c)  
33 of Section 7611 only if the action is brought within a reasonable  
34 time after obtaining knowledge of relevant facts. After the  
35 presumption has been rebutted, paternity of the child by another  
36 man may be determined in the same action, if he has been made  
37 a party.

38 (b) Any interested party may bring an action at any time for the  
39 purpose of determining the existence or nonexistence of the father

1 and child relationship presumed under subdivision (d) or (f) of  
2 Section 7611.

3 (c) An action to determine the existence of the father and child  
4 relationship with respect to a child who has no presumed father  
5 under Section 7611 or whose presumed father is deceased may be  
6 brought by the child or personal representative of the child, the  
7 Department of Child Support Services, the mother or the personal  
8 representative or a parent of the mother if the mother has died or  
9 is a minor, a man alleged or alleging himself to be the father, or  
10 the personal representative or a parent of the alleged father if the  
11 alleged father has died or is a minor.

12 (d) (1) If a proceeding has been filed under Chapter 2  
13 (commencing with Section 7820) of Part 4, an action under  
14 subdivision (a) or (b) shall be consolidated with that proceeding.  
15 The parental rights of the presumed father shall be determined as  
16 set forth in Sections 7820 to 7829, inclusive.

17 (2) If a proceeding pursuant to Section 7662 has been filed under  
18 Chapter 5 (commencing with Section 7660), an action under  
19 subdivision (c) shall be consolidated with that proceeding. The  
20 parental rights of the alleged natural father shall be determined as  
21 set forth in Section 7664.

22 (3) The consolidated action under paragraph (1) or (2) shall be  
23 heard in the court in which the proceeding under Section 7662 or  
24 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless  
25 the court finds, by clear and convincing evidence, that transferring  
26 the action to the other court poses a substantial hardship to the  
27 petitioner. Mere inconvenience does not constitute a sufficient  
28 basis for a finding of substantial hardship. If the court determines  
29 there is a substantial hardship, the consolidated action shall be  
30 heard in the court in which the paternity action is filed.

31 (e) (1) If any prospective adoptive parent who has physical  
32 custody of the child, or any licensed California adoption agency  
33 that has legal custody of the child, has not been joined as a party  
34 to an action to determine the existence of a father and child  
35 relationship under subdivision (a), (b), or (c), or an action for  
36 custody by the alleged natural father, the court shall join the  
37 prospective adoptive parent or licensed California adoption agency  
38 as a party upon application or on its own motion, without the  
39 necessity of a motion for joinder. *A joined party shall not be*  
40 *required to pay a fee in connection with this action.*

(2) If a man brings an action to determine paternity and custody of a child who he has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's mother who are prospective adoptive parents, he shall serve his entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

~~SECTION 1.~~

*SEC. 4.* Section 7660.5 of the Family Code is amended to read:

7660.5. Notwithstanding any other provision of law, a presumed father may waive the right to notice of any adoption proceeding by executing a form developed by the department before an authorized representative of the department, an authorized representative of a licensed public or private adoption agency, or a notary public or other person authorized to perform notarial acts. The waiver of notice form may be validly executed before or after the birth of the child, and once signed no notice, relinquishment for, or consent to adoption of the child shall be required from the father for the adoption to proceed. This shall be a voluntary and informed waiver without undue influence. If the child is an Indian child as defined under the Indian Child Welfare Act (ICWA), any waiver of consent by an Indian presumed father shall be executed in accordance with the requirements for voluntary adoptions set forth in Section 1913 of Title 25 of the United States Code. The waiver shall not affect the rights of any known federally recognized Indian tribe or tribes from which the child or the presumed father may be descended to notification of, or participation in, adoption proceedings as provided by the ICWA. Notice that the waiver has been executed shall be given to any known federally recognized Indian tribe or tribes from which the child or the presumed father may be descended, as required by the ICWA.

~~SEC. 2.~~

*SEC. 5.* Section 7662 of the Family Code is amended to read:

7662. (a) If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child who does not have a presumed father under Section 7611, or if a

1 child otherwise becomes the subject of an adoption proceeding,  
2 the agency or person to whom the child has been or is to be  
3 relinquished, or the mother or the person having physical or legal  
4 custody of the child, or the prospective adoptive parent, shall file  
5 a petition to terminate the parental rights of the father, unless ~~either~~  
6 *one* of the following occurs:

7 (1) The father's relationship to the child has been previously  
8 terminated or determined not to exist by a court.

9 (2) The father has been served as prescribed in Section 7666  
10 with a written notice alleging that he is or could be the natural  
11 father of the child to be adopted or placed for adoption and has  
12 failed to bring an action for the purpose of declaring the existence  
13 of the father and child relationship pursuant to subdivision (c) of  
14 Section 7630 within 30 days of service of the notice or the birth  
15 of the child, whichever is later.

16 (3) The alleged father has executed a written form developed  
17 by the department to waive notice, to deny his paternity, relinquish  
18 the child for adoption, or consent to the adoption of the child.

19 (b) The birth father may validly execute a waiver or denial of  
20 paternity before or after the birth of the child, and once signed, no  
21 notice of, relinquishment for, or consent to adoption of the child  
22 shall be required from the birth father for the adoption to proceed.

23 (c) All proceedings affecting a child under Divisions 8  
24 (commencing with Section 3000) to 11 (commencing with Section  
25 6500), inclusive, and Parts 1 (commencing with Section 7500) to  
26 3 (commencing with Section 7600), inclusive, of this division,  
27 other than an action brought pursuant to this section, shall be stayed  
28 pending final determination of proceedings to terminate the parental  
29 rights of the father pursuant to this section.

30 (d) Nothing in this section may limit the jurisdiction of the court  
31 pursuant to Part 3 (commencing with Section 6240) and Part 4  
32 (commencing with Section 6300) of Division 10 with respect to  
33 domestic violence orders.

34 *SEC. 6. Section 8700 of the Family Code is amended to read:*

35 8700. (a) Either birth parent may relinquish a child to the  
36 department or a licensed adoption agency for adoption by a written  
37 statement signed before two subscribing witnesses and  
38 acknowledged before an authorized official of the department or  
39 agency. The relinquishment, when reciting that the person making  
40 it is entitled to the sole custody of the child and acknowledged

1 before the officer, is prima facie evidence of the right of the person  
2 making it to the sole custody of the child and the person's sole  
3 right to relinquish.

4 (b) A relinquishing parent who is a minor has the right to  
5 relinquish his or her child for adoption to the department or a  
6 licensed adoption agency, and the relinquishment is not subject to  
7 revocation by reason of the minority.

8 (c) If a relinquishing parent resides outside this state and the  
9 child is being cared for and is or will be placed for adoption by  
10 the department or a licensed adoption agency, the relinquishing  
11 parent may relinquish the child to the department or agency by a  
12 written statement signed by the relinquishing parent before a notary  
13 on a form prescribed by the department, and previously signed by  
14 an authorized official of the department or agency, that signifies  
15 the willingness of the department or agency to accept the  
16 relinquishment.

17 (d) If a relinquishing parent and child reside outside this state  
18 and the child will be cared for and will be placed for adoption by  
19 the department or a licensed adoption agency, the relinquishing  
20 parent may relinquish the child to the department or agency by a  
21 written statement signed by the relinquishing parent, after that  
22 parent has satisfied the following requirements:

23 (1) Prior to signing the relinquishment, the relinquishing parent  
24 shall have received, from a representative of an agency licensed  
25 or otherwise approved to provide adoption services under the laws  
26 of the relinquishing parent's state of residence, the same counseling  
27 and advisement services as if the relinquishing parent resided in  
28 this state.

29 (2) The relinquishment shall be signed before a representative  
30 of an agency licensed or otherwise approved to provide adoption  
31 services under the laws of the relinquishing parent's state of  
32 residence whenever possible or before a licensed social worker on  
33 a form prescribed by the department, and previously signed by an  
34 authorized official of the department or agency, that signifies the  
35 willingness of the department or agency to accept the  
36 relinquishment.

37 (e) (1) The relinquishment authorized by this section has no  
38 effect until a certified copy is sent to, and filed with, the  
39 department. The licensed adoption agency shall send that copy by  
40 certified mail, return receipt requested, or by overnight courier or



1 messenger, with proof of delivery, to the department no earlier  
2 than the end of the business day following the signing thereof. *The*  
3 *agency shall inform the birth parent that during this time period*  
4 *he or she may request that the relinquishment be withdrawn and*  
5 *that, if he or she makes the request, the relinquishment may be*  
6 *withdrawn as provided pursuant to existing law.* The  
7 relinquishment shall be final 10 business days after receipt of the  
8 filing by the department, unless any of the following apply:

9 (A) The department sends written acknowledgment of receipt  
10 of the relinquishment prior to the expiration of that 10-day period,  
11 at which time the relinquishment shall be final.

12 (B) A longer period of time is necessary due to a pending court  
13 action or some other cause beyond control of the department.

14 (2) After the relinquishment is final, it may be rescinded only  
15 by the mutual consent of the department or licensed adoption  
16 agency to which the child was relinquished and the birth parent or  
17 parents relinquishing the child.

18 (f) The relinquishing parent may name in the relinquishment  
19 the person or persons with whom he or she intends that placement  
20 of the child for adoption be made by the department or licensed  
21 adoption agency.

22 (g) Notwithstanding subdivision (e), if the relinquishment names  
23 the person or persons with whom placement by the department or  
24 licensed adoption agency is intended and the child is not placed  
25 in the home of the named person or persons or the child is removed  
26 from the home prior to the granting of the adoption, the department  
27 or agency shall mail a notice by certified mail, return receipt  
28 requested, to the birth parent signing the relinquishment within 72  
29 hours of the decision not to place the child for adoption or the  
30 decision to remove the child from the home.

31 (h) The relinquishing parent has 30 days from the date on which  
32 the notice described in subdivision (g) was mailed to rescind the  
33 relinquishment.

34 (1) If the relinquishing parent requests rescission during the  
35 30-day period, the department or licensed adoption agency shall  
36 rescind the relinquishment.

37 (2) If the relinquishing parent does not request rescission during  
38 the 30-day period, the department or licensed adoption agency  
39 shall select adoptive parents for the child.

(3) If the relinquishing parent and the department or licensed adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(i) If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department or a licensed adoption agency for the purpose of adoption, the department or agency accepting the relinquishment shall provide written notice of the relinquishment within five court days to all of the following:

(1) The juvenile court having jurisdiction of the child.

(2) The child's attorney, if any.

(3) The relinquishing parent's attorney, if any.

(j) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (g) and (h).

(k) The department shall adopt regulations to administer the provisions of this section.

~~SEC. 3.~~

*SEC. 7.* Section 8714.5 of the Family Code is amended to read:

8714.5. (a) The Legislature finds and declares the following:

(1) It is the intent of the Legislature to expedite legal permanency for children who cannot return to their parents and to remove barriers to adoption by relatives of children who are already in the dependency system or who are at risk of entering the dependency system.

(2) This goal will be achieved by empowering families, including extended families, to care for their own children safely and permanently whenever possible, by preserving existing family relationships, thereby causing the least amount of disruption to the child and the family, and by recognizing the importance of sibling and half-sibling relationships.

(b) A relative desiring to adopt a child may for that purpose file a petition in the county in which the petitioner resides. Where a child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and thereafter has been freed for adoption by the juvenile court, the

1 petition may be filed either in the county where the petitioner  
2 resides or in the county where the child was freed for adoption.

3 (c) Upon the filing of a petition for adoption by a relative, the  
4 clerk of the court shall immediately notify the State Department  
5 of Social Services in Sacramento in writing of the pendency of the  
6 proceeding and of any subsequent action taken.

7 (d) If the adopting relative has entered into a postadoption  
8 contact agreement with the birth parent as set forth in Section  
9 8616.5 the agreement, signed by the participating parties, shall be  
10 attached to and filed with the petition for adoption under  
11 subdivision (b).

12 (e) The caption of the adoption petition shall contain the name  
13 of the relative petitioner. The petition shall state the child's name,  
14 sex, and date of birth.

15 (f) If the child is the subject of a guardianship petition, the  
16 adoption petition shall so state and shall include the caption and  
17 docket number or have attached a copy of the letters of the  
18 guardianship or temporary guardianship. The petitioner shall notify  
19 the court of any petition for adoption. The guardianship proceeding  
20 shall be consolidated with the adoption proceeding, and the  
21 consolidated case shall be heard and decided in the court in which  
22 the adoption is pending.

23 (g) The order of adoption shall contain the child's adopted name  
24 and, if requested by the adopting relative, or if requested by the  
25 child who is 12 years of age or older, the name the child had before  
26 adoption.

27 (h) For purposes of this section, "relative" means an adult who  
28 is related to the child or the child's half-sibling by blood or affinity,  
29 including all relatives whose status is preceded by the words "step,"  
30 "great," "great-great," or "grand," or the spouse of any of these  
31 persons, even if the marriage was terminated by death or  
32 dissolution.

33 ~~SEC. 4.~~

34 *SEC. 8.* Section 8802 of the Family Code is amended to read:

35 8802. (a) (1) Any of the following persons who desire to adopt  
36 a child may, for that purpose, file a petition in the county in which  
37 the petitioner resides or, if the petitioner is not a resident of this  
38 state, in the county in which the placing birth parent or birth parents  
39 resided when the adoption placement agreement was signed, or

1 the county in which the placing birth parent or birth parents resided  
2 when the petition was filed:

3 (A) An adult who is related to the child or the child's half sibling  
4 by blood or affinity, including all relatives whose status is preceded  
5 by the words "step," "great," "great-great," or "grand," or the  
6 spouse of any of these persons, even if the marriage was terminated  
7 by death or dissolution.

8 (B) A person named in the will of a deceased parent as an  
9 intended adoptive parent where the child has no other parent.

10 (C) A person with whom a child has been placed for adoption.

11 (D) (i) A legal guardian who has been the child's legal guardian  
12 for more than one year.

13 (ii) If the child is alleged to have been abandoned pursuant to  
14 Section 7822, a legal guardian who has been the child's legal  
15 guardian for more than six months. The legal guardian may file a  
16 petition pursuant to Section 7822 in the same court and  
17 concurrently with a petition under this section.

18 (iii) However, if the parent nominated the guardian for a purpose  
19 other than adoption for a specified time period, or if the  
20 guardianship was established pursuant to Section 360 of the  
21 Welfare and Institutions Code, the guardianship shall have been  
22 in existence for not less than three years.

23 (2) If the child has been placed for adoption, a copy of the  
24 adoptive placement agreement shall be attached to the petition.  
25 The court clerk shall immediately notify the department at  
26 Sacramento in writing of the pendency of the proceeding and of  
27 any subsequent action taken.

28 (3) If the petitioner has entered into a postadoption contact  
29 agreement with the birth parent as set forth in Section 8616.5, the  
30 agreement, signed by the participating parties, shall be attached  
31 to and filed with the petition for adoption.

32 (b) The petition shall contain an allegation that the petitioners  
33 will file promptly with the department or delegated county adoption  
34 agency information required by the department in the investigation  
35 of the proposed adoption. The omission of the allegation from a  
36 petition does not affect the jurisdiction of the court to proceed or  
37 the validity of an adoption order or other order based on the  
38 petition.

39 (c) The caption of the adoption petition shall contain the names  
40 of the petitioners, but not the child's name. The petition shall state

1 the child's sex and date of birth and the name the child had before  
2 adoption.

3 (d) If the child is the subject of a guardianship petition, the  
4 adoption petition shall so state and shall include the caption and  
5 docket number or have attached a copy of the letters of the  
6 guardianship or temporary guardianship. The petitioners shall  
7 notify the court of any petition for guardianship or temporary  
8 guardianship filed after the adoption petition. The guardianship  
9 proceeding shall be consolidated with the adoption proceeding,  
10 and the consolidated case shall be heard and decided in the court  
11 in which the adoption is pending.

12 (e) The order of adoption shall contain the child's adopted name,  
13 but not the name the child had before adoption.

14 ~~SEC. 5.~~

15 *SEC. 9.* Section 8814.5 of the Family Code is amended to read:

16 8814.5. (a) After a consent to the adoption is signed by the  
17 birth parent or parents pursuant to Section 8801.3 or 8814, the  
18 birth parent or parents signing the consent shall have 30 days to  
19 take one of the following actions:

20 (1) Sign and deliver to the department or delegated county  
21 adoption agency a written statement revoking the consent and  
22 requesting the child to be returned to the birth parent or parents.  
23 After revoking consent, in cases where the birth parent or parents  
24 have not regained custody, or the birth parent or parents have failed  
25 to make efforts to exercise their rights under subdivision (b) of  
26 Section 8815, a written notarized statement reinstating the original  
27 consent may be signed and delivered to the department or delegated  
28 county adoption agency, in which case the revocation of consent  
29 shall be void and the remainder of the original 30-day period shall  
30 commence. After revoking consent, in cases in which the birth  
31 parent or parents have regained custody or made efforts to exercise  
32 their rights under subdivision (b) of Section 8815 by requesting  
33 the return of the child, upon the delivery of a written notarized  
34 statement reinstating the original consent to the department or  
35 delegated county adoption agency, the revocation of consent shall  
36 be void and a new 30-day period shall commence. The birth mother  
37 shall be informed of the operational timelines associated with this  
38 section at the time of signing of the statement reinstating the  
39 original consent.

1 (2) (A) Sign a waiver of the right to revoke consent on a form  
2 prescribed by the department in the presence of ~~a any of the~~  
3 *following*:

4 (i) A representative of the department or delegated county  
5 adoption agency. ~~The birth parent or parents may also opt to sign~~  
6 ~~the waiver of the right to revoke consent in the presence of an~~

7 (ii) A judicial officer of a court of record if the birth parent is  
8 represented by independent legal counsel.

9 (iii) An adoption service provider if the birth parent or parents  
10 are represented by independent legal counsel. *The adoption service*  
11 *provider shall ensure that the waiver is delivered to the department,*  
12 *the petitioners, or their counsel no earlier than the end of the*  
13 *business day following the signing of the waiver. The adoption*  
14 *service provider shall inform the birth parent that during this time*  
15 *period he or she may request that the waiver be withdrawn and*  
16 *that, if he or she makes that request, the waiver may be withdrawn*  
17 *as provided pursuant to existing law.*

18 (B) An adoption service provider may assist the birth parent or  
19 parents in any activity where the primary purpose of that activity  
20 is to facilitate the signing of the waiver with the department ~~or, a~~  
21 ~~delegated county agency, or a judicial officer.~~ The adoption service  
22 provider or another person designated by the birth parent or parents  
23 may also be present at any interview conducted pursuant to this  
24 section to provide support to the birth parent or parents, except  
25 when the interview is conducted by independent legal counsel for  
26 the birth parent or parents.

27 (C) The waiver of the right to revoke consent may not be signed  
28 until an interview has been completed by the department or  
29 delegated county adoption agency unless the waiver of the right  
30 to revoke consent is signed in the presence of *a judicial officer of*  
31 *a court of record or* an adoption service provider as specified in  
32 this section, in which case the interview shall be conducted by the  
33 *judicial officer or* independent legal counsel for the birth parent  
34 or parents. The waiver shall be reviewed by the independent legal  
35 counsel who (i) counsels the birth parent or parents about the nature  
36 of his or her intended waiver and (ii) signs and delivers to the birth  
37 parent or parents and the department a certificate in substantially  
38 the following form:

39 I, (name of attorney), have counseled my client, (name of  
40 client), on the nature and legal effect of the waiver of right to

1 revoke consent to adoption. I am so disassociated from the  
2 interest of the petitioner(s)/prospective adoptive parent(s) as  
3 to be in a position to advise my client impartially and  
4 confidentially as to the consequences of the waiver. (Name of  
5 client) is aware that California law provides for a 30-day period  
6 during which a birth parent may revoke consent to adoption.

7 On the basis of this counsel, I conclude that it is the intent of  
8 (name of client) to waive the right to revoke, and make a  
9 permanent and irrevocable consent to adoption. (Name of  
10 client) understands that he/she will not be able to regain  
11 custody of the child unless the petitioner(s)/prospective  
12 adoptive parent(s) agree(s) to withdraw their petition for  
13 adoption or the court denies the adoption petition. Within 10  
14 working days of a request made after the department or the  
15 delegated county adoption agency has received a copy of the  
16 petition for the adoption and the names and addresses of the  
17 persons to be interviewed, the department or the delegated  
18 county adoption agency shall interview, at the department or  
19 agency office, any birth parent requesting to be interviewed.  
20 However, the interview, and the witnessing of the signing of  
21 a waiver of the right to revoke consent of a birth parent  
22 residing outside of California or located outside of California  
23 for an extended period of time unrelated to the adoption may  
24 be conducted in the state where the birth parent is located, by  
25 any of the following:

26 (I) A representative of a public adoption agency in that state.

27 (II) A judicial officer in that state where the birth parent is  
28 represented by independent legal counsel.

29 (III) An adoption service provider.

30 (3) Allow the consent to become a permanent consent on the  
31 31st day after signing.

32 (b) The consent may not be revoked after a waiver of the right  
33 to revoke consent has been signed or after 30 days, beginning on  
34 the date the consent was signed or as provided in paragraph (1) of  
35 subdivision (a), whichever occurs first.

36 ~~SEC. 6.~~

37 *SEC. 10.* Section 1510 of the Probate Code is amended to read:

38 1510. (a) A relative or other person on behalf of the minor, or  
39 the minor if 12 years of age or older, may file a petition for the  
40 appointment of a guardian of the minor.

1 (b) The petition shall request that a guardian of the person or  
2 estate of the minor, or both, be appointed, shall specify the name  
3 and address of the proposed guardian and the name and date of  
4 birth of the proposed ward, and shall state that the appointment is  
5 necessary or convenient.

6 (c) The petition shall set forth, so far as is known to the  
7 petitioner, the names and addresses of all of the following:

8 (1) The parents of the proposed ward.

9 (2) The person having legal custody of the proposed ward and,  
10 if that person does not have the care of the proposed ward, the  
11 person having the care of the proposed ward.

12 (3) The relatives of the proposed ward within the second degree.

13 (4) In the case of a guardianship of the estate, the spouse of the  
14 proposed ward.

15 (5) Any person nominated as guardian for the proposed ward  
16 under Section 1500 or 1501.

17 (6) In the case of a guardianship of the person involving an  
18 Indian child, any Indian custodian and the Indian child's tribe.

19 (d) If the proposed ward is a patient in or on leave of absence  
20 from a state institution under the jurisdiction of the State  
21 Department of Mental Health or the State Department of  
22 Developmental Services and that fact is known to the petitioner,  
23 the petition shall state that fact and name the institution.

24 (e) The petition shall state, so far as is known to the petitioner,  
25 whether or not the proposed ward is receiving or is entitled to  
26 receive benefits from the Veterans Administration and the  
27 estimated amount of the monthly benefit payable by the Veterans  
28 Administration for the proposed ward.

29 (f) If the petitioner has knowledge of any pending adoption,  
30 juvenile court, marriage dissolution, domestic relations, custody,  
31 or other similar proceeding affecting the proposed ward, the  
32 petition shall disclose the pending proceeding.

33 (g) If the petitioners have accepted or intend to accept physical  
34 care or custody of the child with intent to adopt, whether formed  
35 at the time of placement or formed subsequent to placement, the  
36 petitioners shall so state in the guardianship petition, whether or  
37 not an adoption petition has been filed.

38 (h) If the proposed ward is or becomes the subject of an adoption  
39 petition, the court shall order the guardianship petition consolidated



- 1 with the adoption petition, and the consolidated case shall be heard
- 2 and decided in the court in which the adoption is pending.
- 3 (i) If the proposed ward is or may be an Indian child, the petition
- 4 shall state that fact.

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